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Safety & Soundness

Basel Committee Publishes FAQs on Standardized Approach of Counterparty Credit Risk

The Basel Committee on Banking Supervision issued Frequently Asked Questions (FAQs) on August 19, 2015, that address interpretive questions it has received related to the Standardized Approach for measuring counterparty credit risk (SA-CCR). The SA-CCR, which was published in March 2014 and revised in April 2014, will replace both current non-internal model approaches, the Current Exposure Method (CEM) and the Standardized Method (SM). The Basel Committee states that it has agreed to periodically review and publish answers to FAQs along with any technical elaboration of the standards and interpretative guidance that it determines may be necessary. [\[Press Statement\]](#) [\[FAQs\]](#)

Enterprise & Consumer Compliance

CFPB Takes Multiple Actions to Address UDAAP Issues

The Consumer Financial Protection Bureau (CFPB or Bureau) and the New York Department of Financial Services (NYDFS) jointly announced on August 20, 2015, that they had filed a complaint in federal court against two companies that are consumer credit lenders and servicers, as well as three related individuals to address the agencies' findings the companies engaged in unfair, deceptive, or abusive acts or practices (UDAAP) in violation of the *Consumer Financial Protection Act* (CFPA) in association with providing pension advance loans. The agencies allege the companies misrepresented the loans as a sale and failed to disclose, or misrepresented, the interest rate and fees attached to the loan product. In addition, the agencies state the companies "interfered with consumers' ability to understand the risks, costs, and conditions of the transactions, and took advantage of consumers' lack of understanding of the product and inability to protect their interests." Among other things, the agencies are seeking disgorgement of ill-gotten revenues, restitution to harmed consumers, and civil money penalties.

Separately on August 20, 2015, the CFPB announced that it had entered into a Consent Order with a company that "offered consumers loan products for financing health-care services through partner banks who issued and serviced the loan products," to address the CFPB's findings that the company violated the UDAAP provisions of the CFPA by misleading consumers about the terms and conditions related to the company's deferred interest loan product. Through the Consent Order, the company agreed to pay \$700,000 in redress to affected consumers, develop a redress plan, and seek a non-objection determination from the CFPB before marketing or selling any product that is substantially similar to the terms and conditions.

Capital Markets and Investment Management

CPMI and IOSCO Issue Consultative Document on Unique Transaction Identifier

The Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) jointly announced the publication of a consultative report entitled, *Harmonization of the Unique Transaction Identifier*, on August 19, 2015. The CPMI and IOSCO state “the final objective is to produce clear guidance as to UTI [unique transaction identifier] definition, format, and usage that meets the needs of UTI users, is global in scale, and is jurisdiction-agnostic, thus enabling the consistent global aggregation of OTC [over-the-counter] derivatives transaction data.” Comments are requested no later than September 30, 2015.

In 2009, G20 Leaders agreed that all OTC derivatives contracts should be reported to trade repositories (TRs) as part of their commitment to reform OTC derivatives markets in order to improve transparency, mitigate systemic risk and protect against market abuse. The Financial Stability Board asked the CPMI and IOSCO to develop global guidance on the harmonization of data elements reported to TRs and important for the aggregation of data by authorities, including the UTI and Unique Product Identifier (UPI). The purpose of a harmonized global UTI would be to uniquely identify each OTC derivative transaction required by authorities to be reported to TRs. The CPMI and IOSCO further indicate they plan to issue a consultative report on the harmonization of an initial group of key OTC derivatives data elements, other than UTIs and UPIs, as well as consultative reports on global UPIs and on other key data elements in the near term. [\[Press Statement\]](#) [\[Consultative Document\]](#)

CFTC Proposes Amendments to Swap Data Recordkeeping and Reporting Requirements

The U.S. Commodity Futures Trading Commission (CFTC) voted on August 19, 2015, to propose amendments to its existing Part 45 regulations in order to provide additional clarity to swap counterparties and registered entities regarding their reporting obligations for cleared swap transactions, as well as to improve the efficiency of data collection and maintenance associated with the reporting of the swaps involved in a cleared swap transaction. Part 45 was adopted in December 2011. Among other goals, the CFTC states the proposed amendments “are intended to remove uncertainty as to which counterparty to a swap is responsible for reporting creation and continuation data for each of the various components of a cleared swap transaction, including to further clarify whose obligation it is to report the extinguishment of a swap upon its acceptance by a derivatives clearing organization (DCO) for clearing.” Comment will be accepted for a period of 60 days following publication in the *Federal Register*. [\[Press Statement\]](#) [\[Proposed Rule\]](#)

SEC Designates FINRA to Administer Professional Qualification Tests for Certain Persons

On August 17, 2015, the Securities and Exchange Commission released an Order designating the Financial Industry Regulatory Authority (FINRA) to administer professional qualification tests for associated persons of registered municipal advisors who engage in municipal advisory activities or engage in the management, direction or supervision of municipal advisory activities. The designation is effective August 17, 2015. [\[Order\]](#)

Enforcement Actions

The Securities and Exchange Commission (SEC) announced the following enforcement actions in the past week:

- The SEC announced that a global broker-dealer agreed to pay a \$15 million penalty to settle charges that it failed to enforce policies and procedures to prevent and detect securities transactions that could involve the misuse of material, nonpublic information. The firm also failed to adopt and implement policies and procedures to prevent and detect principal transactions conducted by an affiliate.
- The SEC announced that a large financial institution agreed to pay a \$14.8 million penalty to settle charges that it violated the *Foreign Corrupt Practices Act* (FCPA) by providing internships to the family members of foreign government officials in an effort to influence the business decisions of the officials.
- The SEC announced that two affiliates of a global financial institution agreed to pay nearly \$180 million to settle charges that they defrauded investors in two hedge funds by claiming they were safe, low-risk, and suitable for traditional bond investors.

Contact Us

This is a publication of KPMG's Financial Services Regulatory Risk Practice and KPMG's Americas FS Regulatory Center of Excellence

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